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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,445	12/31/2001	Jacquelyn Martino	US 010685	4835

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
P.O. BOX 3001  
BRIARCLIFF MANOR, NY 10510

EXAMINER
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ROBINSON, GRETA LEE

ART UNIT	PAPER NUMBER
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2168

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/28/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/037,445

Applicant(s)

MARTINO ET AL.

Examiner.

Greta L. Robinson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-6,8-11,13-15 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-6, 8-11, 13-15, 21-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 11, 2006 has been entered.

2. Independent claims 1, 6 and 11 have been amended.

### ***Claim Objections***

3. Claims 1, 6, and 11 are objected to because of the following informalities: The limitation "primary and secondary sort keys" should read "primary sort key and secondary sort key" for consistency and clarity in claim limitation. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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5. Claims 1, 3-6, 8-11, 13-15 and 21-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The language of the claim appears to be directed to an abstract idea that does not present a useful, concrete tangible result. Note the claims do not recite operational steps for outputting or displaying the sorted items to an end user. Also, independent claims 1 and 6 recite limitation for producing a list of results in the preamble of the claim, however the body of the claim omits an operational procedure for actually executing a sort process. Claims 3, 4, 5, 8-10, 13-15 and 21-23 are rejected based on dependency.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 3-5, 8-10, and 13-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "the primary sort controller" in line 1. There is insufficient antecedent basis for this limitation in the claim. Also, note similar limitation in claims 4, 5, 8-10, and 13-15 [see claim 4 line 2; claim 5 line 3; claim 8 line 1; claim 9 line 2; claim 10 line 3; claim 13 line 3; claim 14 line 2; and claim 15 line 4].

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1, 3-6, 8-11, 13-15, and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hiyoshi US Patent 6,601,067 B1 in view of Schindler US Patent 6,199,064 B1.

Regarding claim 1, Hiyoshi teaches a system for producing a list of results, the system comprising "a sort controller receiving a plurality of information items regarding content" note *sort/merge processor 10* figure 1. Hiyoshi teaches *input files* for receiving a plurality of information, information is read through *file reading unit 15* figure 1. Hiyoshi teaches "wherein, to produce the list of results, the sort controller

sorts the information items" note *sort/merge execution unit* 18 figure 1, also see column 4 lines 10-20. Hiyoshi does not specifically teach "primary and secondary sort keys derived from predetermined user sorting preferences for a current user task context and content type", however this feature is taught by Schindler. Schindler teaches items are sorted by the value of their context and that the context is used to define the primary sort key and the secondary sort key [see: column 7 lines 45-65 items are sorted by the value of their context ; column 8 lines 39-66; and column 11 lines 30-39 "using the context to define the primary sort key" and "deriving a secondary sort key"]. It would have been obvious to one of ordinary skill at the time of the invention to have combined Schindler with Hiyoshi because Schindler teaches how the primary and secondary sort keys are derived from a function of the context for sorting.

10. Regarding claim 3, "wherein a primary sort key is selected by the user and a secondary sort key is selected based on the nature of the current user task" [note: Hiyoshi Figure 1 rule setting unit 14 and extraction criteria 13; also note Schindler, col. 11 lines 29-39].

11. Regarding claim 4, "wherein a change in the current user task context is inferred from a change of the primary sort key by the user" [see: Schindler Figure 9 (435)].

12. Regarding claim 5, "wherein the plurality of information items are displayed in an order determined by the sort controller" [note: Hiyoshi, column 4 lines 28-32 and lines 53-55].

13. The limitations of claims 6 and 8-10 have been addressed above except for the following: an audio receiver, Internet access, and remote control device [note: Hiyoshi input device 28 figure 2, column 5 lines 25-34].

14. The limitations of method claims 11 and 13-15 parallel system claims 1 and 3-5; therefore they are rejected under the same rationale.

15. Regarding claims 21-23, a user interface communicably coupled to the sort controller to receive user input identifying the current user task context [note: Hiyoshi, column 4 lines 40-55; also note interface 26 Figure 2].

### ***Response to Arguments***

16. Applicant's arguments filed December 11, 2007 have been fully considered but they are not persuasive.

In the response Applicant argued, independent claims 1, 6 and 11 have been amended to recite sorting information items using primary and secondary sort keys derived from predetermined user sorting preferences. In response, Applicant argued the secondary reference, Schindler does not teach predetermined user sorting preferences for a current user task context and content type. However the examiner respectfully disagrees. Schindler teaches "using the context to define the primary sort key" and "deriving a secondary sort key" see column 11 lines 30-39. Schindler provides for the concept of information items being sorted by the value of their context through

bucketsort function and gives an example see column 7 lines 45-65 and Figure 9 step 425 SORT DATA BY CONTEXT.

### ***Conclusion***

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sharp US Patent Application Publication No. 2002/0091691 A1

Take US Patent 5,640,554

Fushimi US Patent 6,182,071 B1


18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greta L. Robinson whose telephone number is (571)272-4118. The examiner can normally be reached on M-F 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim T. Vo can be reached on (571)272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Greta Robinson  
Primary Examiner  
February 26, 2007